

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

Tanya Roberts,)	Case No. 7:23-cv-04058-JDA-TER
)	
Plaintiff,)	
)	
v.)	<u>OPINION AND ORDER</u>
)	
Dr. Dana Fall, <i>in his individual</i>)	
<i>capacity</i> ; Cherokee County School)	
District,)	
)	
Defendants.)	

This matter is before the Court on a motion to dismiss filed by Defendants. [Doc. 9.] In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), this matter was referred to United States Magistrate Judge Thomas E. Rogers, III for pre-trial proceedings.

On July 8, 2024, the Magistrate Judge issued a Report and Recommendation (“Report”) recommending that Defendants’ motion to dismiss be granted as to Plaintiff’s fourth cause of action for intentional infliction of emotional distress¹ and that Defendant Dr. Dana Fall be dismissed from the action.² [Doc. 21.] The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and the serious consequences if they failed to do so. [Doc. 21-1.] Plaintiff filed a response on July 17, 2024, and agreed with the Magistrate Judge that Defendants’ motion to dismiss

¹ As noted by the Magistrate Judge, in Plaintiff’s response to Defendants’ motion to dismiss, Plaintiff voluntarily dismissed her retaliation cause of action, which was also the subject of Defendants’ motion to dismiss. [Docs. 21 at 1 n.1; 11 at 2.]

² The only cause of action asserted against Defendant Fall is intentional infliction of emotional distress. [Doc. 1 ¶¶ 46–49.]

should be granted as to Plaintiff's fourth cause of action for intentional infliction of emotional distress. [Doc. 22.]

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a de novo determination of only those portions of the Report that have been specifically objected to, and the Court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation” (internal quotation marks omitted)).

The Court has reviewed the record in this case, the applicable law, and the Report of the Magistrate Judge for clear error. Having done so, the Court accepts the Report and Recommendation of the Magistrate Judge and incorporates it by reference. Accordingly, Defendants' motion to dismiss [Doc. 9] is GRANTED as to Plaintiff's fourth cause of action for intentional infliction of emotional distress and Dr. Dana Fall is DISMISSED from this action.

IT IS SO ORDERED.

s/ Jacquelyn D. Austin
United States District Judge

July 22, 2024
Spartanburg, South Carolina